

June 28, 2007

Kenneth Sikora, Jr.
Environmental Programs Manager
Federal Highway Administration
PO Box 568
Montpelier, VT 05601

Re: Draft Environmental Impact Statement Middlebury Spur Project, Addison County, Vermont
(CEQ #20070181)

Dear Mr. Sikora:

The Environmental Protection Agency-New England Region (EPA) has reviewed the Federal Highway Administration's (FHWA) Draft Environmental Impact Statement (DEIS) for the construction of the Middlebury Rail Spur project in Middlebury, Vermont. We submit the following comments on the DEIS in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The DEIS describes the work necessary to provide for the safe and efficient transportation of freight to and from Middlebury, Vermont. Specifically, as proposed the project is intended to improve the ability of the local transportation network to move material from a marble quarry in Middlebury, Vermont through better access to the rail system. The project is also intended to result in the removal of trucks from the roadway system.

The attachment to this letter highlights several concerns that we recommend that you consider as you develop the Final Environmental Impact Statement (FEIS) for the proposed project. We appreciate the opportunity to comment on the DEIS. Based on our review, we have rated the DEIS "EC-2—Environmental Concerns-Insufficient Information" in accordance with EPA's national rating system, a description of which is attached to this letter. Please contact Timothy Timmermann (617-918-1025) of EPA's Office of Environmental Review with any comments or questions about this letter.

Sincerely,

/s/

Robert W. Varney
Regional Administrator

Attachment

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

**Additional Detailed Comments
Middlebury Spur
Draft Environmental Impact Statement
Middlebury, Vermont**

Air Quality

1. The DEIS does not include the actual regional emission analyses or the air quality technical support documentation for the analysis described in Section 4.4 “Air Quality.” Therefore, EPA is unable to independently evaluate the air quality analysis, modeling, methodology and associated assumptions.

2. The results of the air quality analysis for the no-build alternative, Rail Spur Alternative 1 (RS-1) and Truck to Rail Alternative (TR-1) do not support the elimination of any alternative based solely on air quality impacts. However, given public health concerns about diesel exhaust from heavy duty diesel trucks and train locomotives, EPA recommends that measures be implemented to reduce fine particle emissions emitted from diesel engines.

Emissions from older diesel engines can be controlled with retrofit pollution control equipment such as diesel oxidation catalysts or particulate filters that can be installed on the exhaust of the diesel engine. Retrofits have been successfully applied to many diesel engines across the country and oxidation catalyst technology has been successfully applied to construction equipment used on several projects in the Northeast, including the Central Artery/Third Harbor Tunnel project in Boston and the Q Bridge Reconstruction project near New Haven, CT. Based on this success, some New England States (e.g., MA and CT) are now requiring construction equipment to be retrofitted with retrofit control devices or use clean fuels. Retrofit technologies may include EPA verified emission control technologies and fuels and CARB-verified emission control technologies. A listing of these technologies can be accessed at <http://www.epa.gov/otaq/retrofit/verif-list.htm>.

3. Table 3.4-1 National and Vermont Ambient Air Quality Standards (Chapter 3, page 26) should be updated to reflect recent revisions to the National Ambient Air Quality Standards (NAAQSs). Effective December 18, 2006, the PM₁₀ annual standard of 50 µg/m³ was revoked and the PM_{2.5} 24-hour standard of 65 µg/m³ was revised to 35 µg/m³. The National Ambient Air Quality Standards can be found on EPA’s web site at URL address: <http://www.epa.gov/air/criteria.html>.

Wetlands

1. Chapter 3, Page 76, Disturbed Wetlands/Invasive Species—The EIS should also include mention of reed canary grass, *Phalaris arundinacea*, another invasive species.

2. Chapter 4.10.4, Page 419, Potential Wetland Mitigation Measures--We recommend removing the discussion of storm water treatment measures from the first paragraphs. While these measures will be important for minimizing overall environmental impacts of the project and are required to comply with state storm water laws, they would not be part of a wetland mitigation plan.

3. The discussion of mitigation in the EIS should include methods to control and remediate the spread of invasive species. Many of the sites being considered have large stands of reed canary grass. The EIS should discuss options for eradicating invasive species found at these sites.

4. The wetland mitigation sites have potential for compensating for unavoidable losses of wetland function and value. Both sites under consideration in the EIS appear to have existing wetlands that could be managed (enhanced) to promote greater vegetative diversity. Enhancement can be part of an overall mitigation plan, but EPA also recommends that the applicant investigate additional restoration opportunities and that there be assurance that an upland buffer can be secured for the mitigation parcel. The Cornwall Otter Creek Site due to its surrounding land uses (primarily protected lands by the Nature Conservancy and the State of Vermont) is promising as a mitigation site that can mitigate for the loss of habitat value.